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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,007	09/23/2003	Masaaki Ogura	243084US2	1929

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

KHATRI, ANIL

ART UNIT	PAPER NUMBER
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2191

NOTIFICATION DATE	DELIVERY MODE
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07/24/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/668,007	Applicant(s) OGURA, MASAOKI	
	Examiner Anil Khatri	Art Unit 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/14/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12, 20-22, 24, 29, 34, 35, 40, 41, 46-48, 50, 52, 55, 60, 62-64, 66 and 71 is/are rejected.
- 7) ☒ Claim(s) 7-11, 13-19, 23, 25-28, 30-33, 37-39, 42-45, 49, 51, 53, 54, 56-59, 61, 65, 67-70 and 72-77 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

As per applicant's request claims 78 have been canceled.

As per applicant's request claims 1, 3-8, 10-14, 16-18 and 20-77 have been amended and entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 12, 20-22, 24, 29, 34, 35, 40-41, 46-48, 50, 52, 55, 60, 62-64, 66 and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakagawa et al USPN 5,835,911.

Regarding claims 1-3, 6, 12, 20, 36, 41, 46 and 62

Nakagawa et al teaches,

the remote managing apparatus comprises (column 8, lines 50-56, The above described configuration is used in an automatic remote software update system in which a single object software is used as a principle. Furthermore, according to the second embodiment, each user computer is usually provided with plural sets of object software, and each vendor computer is usually provided with a plurality of software libraries);

a first storage part that stores first software configured to update second software of stored by each of the electronic apparatuses (column 9, lines 20-27, FIG. 1 shows the principle of the first embodiment. In FIG. 1, user computers 1-1, . . . , 1-n are connected to a vendor computer 3. Each of the user computers 1-1, . . . , 1-n is equipped with an object software 1a to be updated/managed and a first process unit 1b (which may be called a client program CP) for managing the configuration and operation of is the object software 1a, for example. A user can perform a necessary job by operating the object software 1a);and

a remote managing apparatus software transmitting part that transmits the first software retrieved from the first storage part to the intermediary apparatus via the communication line (figures 1-5, column 34, lines 41-50, according to the first embodiment, as described above, a user computer stores a client program for managing the configuration and the execution of the object software, and a vendor computer, which is connected to the user computer over a network, stores a software library and a server program for managing a software library and automatically updates and remotely manages the software of the user computer. Therefore, problems (1)-(10) of the prior art can be successfully solved. The effects of the first embodiments can be listed corresponding to the respective problems as follows.

the intermediary apparatus comprises: a second storage part; a software writing part that writes the first software to the second storage part when acquiring the first software from the remote managing apparatus software transmitting part (column 34, lines 41-50, according to the first

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embodiment, as described above, a user computer stores a client program for managing the configuration and the execution of the object software, and a vendor computer, which is connected to the user computer over a network, stores a software library and a server program for managing a software library and automatically updates and remotely manages the software of the user computer. Therefore, problems (1)-(10) of the prior art can be successfully solved); and

a an intermediary apparatus software transmitting part that transmits the first software stored in the second storage part to at least one of the electronic apparatuses when the at least one of the electronic apparatuses requires the second software stored therein to be updated; and the electronic apparatuses each comprises:

a non-volatile storage part storing the second software controlling an operation of the electronic apparatus (figures 1-8); and

a software updating part that updates the second software stored in the non volatile storage part based on the first software when receiving the first software from the intermediary apparatus software transmitting part (column 5, lines 33-45, The fourth object of the present invention is to provide a software distribution/maintenance system and method over a network so that users can make requests and inquiries to software suppliers in various formats, for example, inquiries of the outline of software, requests for initial purchase of software, inquiries of update, request for new services, etc. The fifth object of the present invention is to provide a software distribution/maintenance system and method over a network in order to distribute and maintain various types of software such as product software, shareware, freeware, scientific prototype

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software, intra-office software, etc. The sixth object of the present invention is to provide a software distribution/maintenance system and method over a network so that even an unskilled user can obtain a new software or an updated software in an immediately operable form).

Regarding 4-5

Nakagawa et al teaches,

a schedule generating part that generates an update date and time for updating the second software (column 10, lines 51-60 When the first process unit 1b is activated in the user computers 1-1, . . . , 1-n at a predetermined time, the first process unit 1b sends the current configuration information of the object software 1a to the second process unit 3a in the vendor computer 3 through the network 2 to inquire the latest configuration, receives an answer from the second process unit 3a, updates the object software 1a according to the update instruction information in the answer, and prepares for the compiling and linking of programs if necessary. Thus, the object software 1a can be automatically updated),; and a schedule transmitting part that transmits the generated update date and time to the intermediary apparatus (column 10, lines 51-60 When the first process unit 1b is activated in the user computers 1-1, . . . , 1-n at a predetermined time, the first process unit 1b sends the current configuration information of the object software 1a to the second process unit 3a in the vendor computer 3 through the network 2 to inquire the latest configuration, receives an answer from the second process unit 3a, updates the object software 1a according to the update instruction information in the answer, and prepares for the compiling and linking of programs if necessary. Thus, the object software 1a can be automatically updated),;

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the remote managing apparatus software transmitting part apparatus transmits the first software stored in the first storage part to the intermediary apparatus at a request thereof; and the intermediary apparatus further comprises (column 8, lines 50-56, The above described configuration is used in an automatic remote software update system in which a single object software is used as a principle. Furthermore, according to the second embodiment, each user computer is usually provided with plural sets of object software, and each vendor computer is usually provided with a plurality of software libraries) a schedule writing part that writes the update date and time to the second storage part when receiving the update date and time from the remote managing apparatus (column 10, lines 61-67, When a user instructs the user computers 1-1, . . . 1-n to activate the first process unit 1b, the first process unit 1b sends the current configuration information of the object software 1a to the second process unit 3a in the vendor computer 3 through the network 2 to inquire the latest configuration, receives an answer from the second process unit 3a, updates the object software 1a according to the update instruction information in the answer, and prepares for the compiling and linking of programs if necessary. Thus, the object software 1a can be automatically updated); and a transmission requesting part that requests the remote managing apparatus to transmit the first software to the intermediary apparatus when the update date and time stored in the second storage part is reached (column 5, lines 33-39, The fourth object of the present invention is to provide a software distribution/maintenance system and method over a network so that users can make requests and inquiries to software suppliers in various formats, for example, inquiries of the outline of software, requests for initial purchase of software, inquiries of update, request for new services, etc).

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Regarding claims 21, 22, 24, 29 and 34-35

Rejection of claim 20 is incorporated and further claims recites limitation as in claims 1-6, therefore, claims 21, 22, 24, 29 and 34-35 are rejected under same rationale.

Regarding claim 40

Rejection of claim 36 is incorporated and further claim recites limitation as in claims 1-6, therefore, claim 40 is rejected under same rationale.

Regarding claims 47, 48, 50, 52, 55 and 60

Rejection of claim 46 is incorporated and further claims recites limitation as in claims 1-6, therefore, claims 47, 48, 50, 52, 55 and 60 rejected under same rationale.

Regarding claims 63, 64, 66 and 71

Rejection of claim 62 is incorporated and further claims recites limitation as in claims 1-6, therefore, claims 63, 64, 66 and 71 are rejected under same rationale.

Allowable Subject Matter

Claims 7-11, 13-19, 23, 25-28, 30-33, 37-39, 42-45, 49, 51, 53-54, 56-59, 61, 65, 67-70 and 72-77 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ANIL KHATRI
PRIMARY EXAMINER